



COPY

November 4, 2009

Dr. Adena W. Loston
President
St. Philip's College
1801 Martin Luther King Drive
San Antonio, TX 78203-2098

Certified Mail
Return Receipt Requested
No. 7007 0710 0003 7842 6640

Re: Incident Report
OPE ID Number: 00360800

Dear Dr. Loston:

Recently, the U.S. Department of Education (the Department) learned about a fatal shooting that occurred at North Lakeview College (NLC), an additional location of St. Philip's College (SPC). Both SPC and NLC are part of the Alamo Colleges Community (ACC).

This type of incident is covered by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). As the agency charged with enforcing the Clery Act, the Department must ensure that the school is in compliance with all applicable regulations governing campus security and reporting.

Consequently, we want to remind you that 34 C.F.R. § 668.46(c) requires that this incident be reported in the proper crime category for SPC's 2008 calendar year statistics, which will be due October 1, 2009. In addition, this incident must also be included in any crime log maintained by SPC, as required by 34 C.F.R. § 668.64(f).

34 C.F.R. § 668.46(b)(2)(i) requires an institution to have a timely warning policy. In addition, 34 C.F.R. § 668.46(e) requires that a timely warning must be issued to the campus community if an institution determines that a threat exists to their safety or property unless a crime was reported to a pastoral or professional counselor.

Pursuant to 34 C.F.R. § 668.46(b), institutions are required to prepare an annual security report with crime statistics and certain required statements and policies. The Department reviewed SPC's report, which is part of a consolidated report prepared by ACC. Consolidated annual security reports can fulfill the reporting requirements of individual eligible institutions. However, for an eligible institution to be compliant, such reports must specifically and accurately address the needs of each eligible institution.

Federal Student Aid, School Participation Team - Dallas
1999 Bryan Street, Suite 1410, Dallas, TX 75201-6817
www.FederalStudentAid.ed.gov

FEDERAL STUDENT AID  START HERE. GO FURTHER.

The Department identified the following deficiencies in ACC's annual security report.

Access and Maintenance of Campus Facilities

ACC's annual security report contains a general statement that the president of each campus and other officials are responsible for determining access to the facilities under their control. However, no specific information on the access to individual institutions is provided in the report.

Crime Categories and Crime Statistics

ACC's annual security report contains incorrect crime categories. 34 C.F.R. § 668.46(c) requires that statistics be provided for the following categories of crime.

- Criminal homicide (murder and nonnegligent manslaughter)
- Sex offenses (forcible sex offenses and nonforcible sex offenses)
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Arrests for liquor law violations, drug law violations, and illegal weapons possession
- Persons not included in the above category who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession

Criminal Homicide, Aggravated Assault, and Arson

The ACC report does not include the category for "nonnegligent manslaughter"; only "murder" is listed. In addition, the ACC report does not include the categories for "aggravated assault" and "arson."

Sex Offenses

Also, the ACC report uses the category of "sexual assault" when the required categories are "forcible sex offenses" and "nonforcible sex offenses." These are important distinctions because the category "forcible sex offenses" includes forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Depending on how ACC classifies crimes, "sexual assault" may be too narrow a category and may omit covered offenses.

Liquor Law Violations, Drug Law Violations, and Illegal Weapons Possession

The ACC report does not distinguish between arrests and disciplinary action referrals for liquor law violations, drug law violations, and illegal weapons possession, as required.

Hate Crimes

The ACC report has a one line entry for hate crimes that is inadequate, although we note that no hate crimes have been reported at any ACC institution. Institutions are required to include hate crime statistics by category of prejudice and geographic location (see *Geographic Location Breakdown* below). The categories of prejudice that must be disclosed for Clery Act purposes are:

- Race
- Gender
- Religion
- Sexual Orientation
- Ethnicity/National Origin
- Disability

Institutions are required to make a case-by-case assessment of the facts to determine if an incident was a hate crime (i.e., the perpetrator was motivated by a prejudice to commit the crime). The hate crime categories that must be reported are:

- Criminal homicide (murder and nonnegligent manslaughter)
- Sex offenses (forcible sex offenses and nonforcible sex offenses)
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Any other crime involving bodily injury reported to local police agencies or to a campus security authority.

Other Crime Categories

We note that the ACC report includes statistics for categories that are not required (i.e., kidnapping and theft). Although the Department does not object to the inclusion of these categories, they are not required by the Clery Act. In addition, we note that ACC provides five calendar years of crime statistics. Although the Department does not object to the inclusion of five calendar years, the Clery Act only requires that the three previous calendar years be included.

Crime Statistics and Geographic Locations

ACC's annual security report contains crime statistics by geographic location, as follows:

- San Antonio College
- St. Philip's College
- St. Philip's College – Southwest Center

- Northeast Lakeview College
- Palo Alto College
- Northwest Vista College
- Central Texas Technology Center
- Westside Education & Training Center
- Advanced Technology Center

Four of the locations represent eligible main campuses: San Antonio College, St. Philip's College, Palo Alto College, and Northwest Vista College. The remaining five locations are additional locations.

For each eligible main location mentioned above, the ACC annual security report only has one table. This table appears to be aggregating crimes committed in different areas. The Clery Act requires that crime statistics be broken down by the following geographic locations:

- On campus
- On campus – Residence Halls (*not applicable to ACC institutions*)
- Noncampus
- Public Property

- Hate Crimes - On campus
- Hate Crimes - On campus – Residence Halls (*not applicable to ACC institutions*)
- Hate Crimes - Noncampus
- Hate Crimes - Public Property

Conclusion

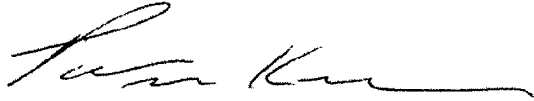
SPC must provide the following within 60 days of the receipt of this letter:

- Revised policy for access and maintenance of campus facilities that specifically addresses the SPC's unique campus circumstances, and
- Copy of SPC's timely warning policy and SPC's determination of whether the incident represented a continuing and existing threat to the campus community, and
- Description of the timely warning issued, including the method for disseminating the warning, and
- Revised crime statistics in the required crime categories and geographic locations, as well as support for the crime statistics (i.e., copies of the incident reports that make up the statistics). This will require that SPC re-examine its crime information to ensure that covered incidents were not excluded, especially with regard to sexual offenses, and to separate arrests from disciplinary referrals for liquor law violations, drug law violations, and weapons possession. In addition, PAC must ensure that the crime statistics it reports to the Department include crimes that occur in all of its Title IV eligible locations.

St. Philip's College
OPE 00360800
Page 5

Again, we regret that this fatal shooting occurred at an SPC location. If you have any questions, please call Mr. Jesus Moya at (214) 661 9472. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick B. Kennedy", with a long horizontal flourish extending to the right.

Patrick B. Kennedy
Area Case Director

cc: Dr. Bruce H. Leslie, Chancellor, Alamo Community Colleges
Dr. Eric Reno, President, Northeast Lakeview College